

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ANTHONY BISPO,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 1:20-cv-01457-SAB

ORDER RE STIPULATION FOR NUNC PRO  
TUNC EXTENSION OF TIME TO SERVE  
CONFIDENTIAL LETTER BRIEF AND TO  
MODIFY SCHEDULING ORDER AS TO  
REMAINING DEADLINES

(ECF Nos. 7, 18)

Plaintiff Anthony Bispo filed this action seeking review of the Commissioner's denial of Social Security benefits on October 14, 2020. (ECF No. 1.) On October 15, 2020, the Court issued a scheduling order. (ECF No. 7.) On November 9, 2020, the Court issued an order advising the parties of the stay of the action pursuant to General Order 615. (ECF No. 12.) On August 9, 2021, the administrative transcript was lodged with the Court and the Court lifted the stay on the action. (ECF Nos. 13, 14.) The parties were directed to proceed according to the scheduling guidelines set forth in the October 15, 2020 scheduling order. (ECF No. 14 at 2.) Plaintiff served her letter brief on September 1, 2021. (ECF No. 15.) Accordingly, Defendant's confidential letter brief was due on October 6, 2021. (See ECF No. 7 ¶ 7.) However, Defendant's confidential letter brief was served on October 28, 2021. (ECF No. 17.)

On November 1, 2021, the parties filed a stipulated request for an extension of time for

1 Plaintiff to file the opening brief and to modify the scheduling order as to the remaining  
2 deadlines. (ECF No. 18.) Specifically, the parties request the deadline for Plaintiff's opening  
3 brief be extended to November 29, 2021; the deadline for Defendant's responsive brief be  
4 extended to December 29, 2021; and the deadline for Plaintiff's reply be extended to January 13,  
5 2022. Implicit in the stipulated request is a post hoc extension request for Defendant to have until  
6 October 28, 2021, to serve the confidential letter brief. Counsel for Defendant acknowledges the  
7 letter brief was filed late but submits that the attorney previously responsible for the above-  
8 captioned matter departed the office after Plaintiff served his confidential letter brief and counsel  
9 miscalendared the deadline during the transition. Counsel additionally apologizes to the Court for  
10 the inconvenience caused by the delay.

11 The parties are reminded that requests to modify the briefing schedule that are made on  
12 the eve of a deadline or thereafter will be looked upon with disfavor and may be denied absent a  
13 showing of good cause for the delay in seeking an extension. If such a request is made after a  
14 deadline, the party seeking the nunc pro tunc extension must show additional good cause as to  
15 why the matter was filed late.

16 Nevertheless, based upon a review of the parties' stipulation for an extension of time, the  
17 Court finds good cause to grant the nunc pro tunc extension and to extend Plaintiff's opening  
18 brief deadline. The request was not made in bad faith and the stipulated relief requested by the  
19 parties is warranted. However, the parties are reminded that any failures to comply with the  
20 scheduling order may result in sanctions pursuant to Local Rule 110.

21 Accordingly, IT IS HEREBY ORDERED that:

- 22 1. The deadline for Defendant's confidential letter brief to be served is extended nunc  
23 pro tunc to October 28, 2021;
- 24 2. The deadline for Plaintiff's opening brief is extended to November 29, 2021;
- 25 3. The deadline for Defendant's responsive brief is extended to December 29, 2021;
- 26 and

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4. The deadline for Plaintiff's reply is extended to January 13, 2022.

IT IS SO ORDERED.

Dated: November 2, 2021



UNITED STATES MAGISTRATE JUDGE